

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOHN LUCKETT,

Petitioner,

v.

STATE OF NEVADA,

Respondents.

Case No. 3:20-cv-00684-MMD-WGC

ORDER

On December 19, 2020, Petitioner John Lockett, then a prisoner in custody of the Nevada Department of Corrections ("NDOC"), initiated action to correct an illegal sentence in violation of his Fifth and Fourteenth Amendment constitutional rights, with an application to proceed *in forma pauperis*. (ECF Nos. 1, 1-1.) On January 15, 2021, while the case was awaiting screening, Respondents filed a suggestion of death on the record. (ECF No. 7.)

If Plaintiff was seeking non-habeas relief, pursuant to Federal Rule of Civil Procedure 25(a)(1), "[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1). As such, if there is no motion for substitution within 90 days of the date of this order, the Court will dismiss the case.

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1 In the meantime, the Court denies the pending motion (ECF No. 1) as moot with
2 leave for the moving party to request reinstatement of their motion within seven days from
3 the Court's order granting any motion to substitute the proper party.

4 DATED THIS 19th Day of January 2021.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE